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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,939	02/27/2002	Deanna Lynn Quigg Brown	AUS920010896US1	5277

7590 07/10/2006

Mr. Volel Emile
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EXAMINER	
FOX, JAMAL A	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,939	BROWN ET AL.	
	Examiner	Art Unit	
	Jamal A. Fox	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6-8,11-13 and 16-18* is/are rejected.

7)☒ Claim(s) *4,5,9,10,14,15,19 and 20* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 6, 7, 11, 12, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Lincke et al. (U.S. Patent No. 6,590,588).

Referring to claim 1, Lincke et al. discloses a method of maintaining a two-byte (byte, col. 26 lines 52-60, col. 61 lines 5-13) identification field of an Internet protocol (IP) header (header, col. 77 line 48 – col. 78 line 34) of a packet, the packet being transmitted over a network, the method comprising the steps of:

determining whether a packet is permitted to be fragmented (fragmented, col. 77 line 48 – col. 78 line 34); and

using a non-unique identification (identification, col. 78 lines 25-34) number in the IP header if the packet is not permitted to be fragmented, the non-unique identification number (0, col. 78 lines 25-34) being a number that all packets that are not to be fragmented have as an IP identification number.

Referring to claim 2, Lincke et al. discloses the method of claim 1 wherein the network is a Gigabit Ethernet (ethernet, col. 51 lines 50 – 60) network.

Referring to claim 6, Lincke et al. discloses a computer program product on a computer readable medium for maintaining a two-byte (byte, col. 26 lines 52-60, col. 61 lines 5-13) identification field of an Internet protocol (IP) header (header, col. 77 line 48 – col. 78 line 34) of a packet, the packet being transmitted over a network, the computer program product comprising:

code means for determining whether a packet is permitted to be fragmented (fragmented, col. 77 line 48 – col. 78 line 34); and code means for using a non-unique identification (identification, col. 78 lines 25-34) number in the IP header (header, col. 77 line 48 – col. 78 line 34) if the packet is not permitted to be fragmented, the non-unique identification number (0, col. 78 lines 25-34) being a number that all packets that are not to be fragmented have as an IP identification number.

Referring to claim 7, Lincke et al. discloses the computer program product of claim 6 wherein the network is a Gigabit Ethernet (ethernet, col. 51 lines 50 – 60) network.

Referring to claim 11, Lincke et al. discloses an apparatus for maintaining a two-byte (byte, col. 26 lines 52-60, col. 61 lines 5-13) identification field of an Internet

protocol (IP) header (header, col. 77 line 48 – col. 78 line 34) of a packet, the packet being transmitted over a network, the apparatus comprising:

means for determining whether a packet is permitted to be fragmented (fragmented, col. 77 line 48 – col. 78 line 34); and

means for using a non-unique identification (identification, col. 78 lines 25-34) number in the IP header (header, col. 77 line 48 – col. 78 line 34) if the packet is not permitted to be fragmented (fragmented, col. 77 line 48 – col. 78 line 34), the non-unique identification number (0, col. 78 lines 25-34) being a number that all packets that are not to be fragmented have as an IP identification number.

Referring to claim 12, Lincke et al. discloses the apparatus of claim 11 wherein the network is a Gigabit Ethernet (ethernet, col. 51 lines 50 – 60) network.

Referring to claim 16, Lincke et al. discloses a computer system for maintaining a two-byte (byte, col. 26 lines 52-60, col. 61 lines 5-13) identification field of an Internet protocol (IP) header (header, col. 77 line 48 – col. 78 line 34) of a packet, the packet being transmitted over a network, the computer system comprising:

at least one memory (memory, col. 9 lines 5-15, col. 14 lines 25-35 and lines 45-55) device for storing code data; and

at least on processor (processor, col. 9 lines 5-15 and microprocessor, col. 23 lines 15-25) for processing the code data to determine whether a packet is permitted to be fragmented (fragmented, col. 77 line 48 – col. 78 line 34) and to use a non-unique identification (identification, col. 78 lines 25-34) number in the IP header (header, col. 77 line 48 – col. 78 line 34) if the packet is not permitted to be fragmented (fragmented, col.

77 line 48 – col. 78 line 34), the non-unique identification number (0, col. 78 lines 25-34) being a number that all packets that are not to be fragmented have as an IP identification number.

Referring to claim 17, Lincke et al. discloses the computer system of claim 16 wherein the network is a Gigabit Ethernet (ethernet, col. 51 lines 50 – 60) network.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 3, 8, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lincke et al. in view of U.S. Patent Application No. 10/087,939.

Referring to claim 3, Lincke et al. discloses the method of claim 2, but does not explicitly teach of a re-assembly timer being set to 30 seconds. However, the applicant admitted that it is rather common to have fragment re-assembly timers of thirty (30) seconds (see specification page 2, lines 25-28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included to the invention of Lincke et al. a re-assembly timer being set to 30 seconds in order to create different IP packets having the same IP identification number on the network as suggested by U.S. Patent Application No. 10/087,939 (see spec. page 2 lines 28-30).

Referring to claim 8, Lincke et al. discloses the computer program product of claim 7, but does not explicitly teach of a re-assembly timer being set to 30 seconds. However, the applicant admitted that it is rather common to have fragment re-assembly timers of thirty (30) seconds (see specification page 2, lines 25-28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included to the invention of Lincke et al. a re-assembly timer being set to 30 seconds in order to create different IP packets having the same IP identification number on the network as suggested by U.S. Patent Application No. 10/087,939 (see spec. page 2 lines 28-30).

Referring to claim 13, Lincke et al. discloses the apparatus of claim 12, but does not explicitly teach of a re-assembly timer being set to 30 seconds. However, the applicant admitted that it is rather common to have fragment re-assembly timers of thirty (30) seconds (see specification page 2, lines 25-28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included to the invention of Lincke et al. a re-assembly timer being set to 30 seconds in order to create different IP packets having the same IP identification number on the network as suggested by U.S. Patent Application No. 10/087,939 (see spec. page 2 lines 28-30).

Referring to claim 18, Lincke et al. discloses the computer system of claim 17, but does not explicitly teach of a re-assembly timer being set to 30 seconds. However, the applicant admitted that it is rather common to have fragment re-assembly timers of thirty (30) seconds (see specification page 2, lines 25-28). Therefore, it would have

been obvious to one having ordinary skill in the art at the time the invention was made to have included to the invention of Lincke et al. a re-assembly timer being set to 30 seconds in order to create different IP packets having the same IP identification number on the network as suggested by U.S. Patent Application No. 10/087,939 (see spec. page 2 lines 28-30).

Allowable Subject Matter

5. Claims 4, 5, 9, 10, 14, 15, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 2/14/2006 have been fully considered but they are not persuasive. Applicant argued that Lincke et al. does not teach, show or suggest a method of maintaining a two-byte identification field of an IP header of a packet by determining whether a packet is permitted to be fragmented and using a non-unique identification number in the IP header if the packet is not permitted to be fragmented where the non-unique identification number being a number that all packets that are not to be fragmented have as an IP identification number. However, one skilled in the art would recognize that maintaining a two-byte identification field is disclosed in (col. 26 lines 52-60 and col. 61 lines 5-13); an IP header is disclosed in (col. 77 line 48 – col. 78 line 34); determining whether the packet is permitted to be fragmented is disclosed in (col. 77 line 48 – col. 78 line 34); using a non-unique identification number in the IP header if the packet is not permitted to be fragmented is disclosed in (col. 78 lines 25-

34); and the non-unique identification number being a number that all packets that are not to be fragmented have as an IP identification number is disclosed in (col. 78 lines 25-34).

Conclusion

7. **Any response to this action should be mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on 8:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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